

APPEAL NO. 021526  
FILED JULY 29, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 16, 2002. The hearing officer determined that the compensable injury of respondent (claimant) extended to the cervical spine, thoracic spine, and right shoulder and that claimant had disability on November 23, 2001, and from December 5, 2001, through the date of the hearing. Appellant (carrier) appealed these determinations on sufficiency grounds. Claimant responded that the Appeals Panel should affirm the decision and order.

DECISION

We affirm in part and reverse and render in part.

We have reviewed the complained-of determination regarding extent of injury and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Regarding disability, we affirm the hearing officer's determination that claimant had disability on November 23, 2001, and from December 5, 2001, through April 14, 2002. That determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. We reverse the determination that claimant had disability from April 15, 2002, through the date of the hearing. Claimant said he was earning \$14.00 per hour working 30 hours per week for a new employer after that date, or \$420.00 per week. The new employment was started after the date of injury. Claimant had been earning \$9.42 per hour working 35 to 40 hours per week at his job for employer when he was injured, or \$329.70 to \$376.80 per week. "Disability" means the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Section 401.011(16). We reverse the hearing officer's determination that claimant had disability from April 15, 2002, through the date of the hearing and render a decision that claimant did not have disability from April 15, 2002, through the date of the hearing.

We affirm that part of the hearing officer's decision and order that determined that claimant's injury extends to his cervical spine, thoracic spine, and right shoulder. We affirm that part of the hearing officer's decision and order that determined that claimant had disability on November 23, 2001, and from December 5, 2001, through April 14, 2002. We reverse that part of the hearing officer's decision that determined that claimant had disability from April 15, 2002, through the date of the hearing and render that claimant did not have disability from April 15, 2002, through the date of the hearing.

According to information provided by carrier, the true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT PARNELL  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Michael B. McShane  
Appeals Judge